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PETITIONS OFFICE

CERTIFICATE OF FACSIMILE  
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PTO NO. 1-703-308-6916

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Attorney Docket No.: 990667/RSB

**IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE**

Applicants : Ludwig WILDT et al.

Serial No. : 09/403,940

Filed : January 12, 2000

For : DEVICE FOR DETERMINING  
FLUCTUATIONS IN END  
EXPIRATORY GASES, METHOD  
FOR DETERMINING FLUCTUATIONS  
IN RESPIRATORY METABOLISM AND  
THE USE OF SAID DEVICE

Art Unit : 1743

Examiner : GAKH

**PROOF OF ATTORNEY OF RECORD**

TOTAL PAGES: 4

I hereby certify that this  
paper is being facsimile  
transmitted to the  
Commissioner for Patents.  
P.O. Box 1450  
Alexandria, VA 22313-1450  
on the date noted below.

Attorney: Richard S. Barth

Dated: May 21, 2003

In the event that this Paper  
is late filed, and the  
necessary petition for  
extension of time is not filed  
concurrently herewith, please  
consider this as a Petition  
for the requisite extension of  
time, and to the extent not  
tendered by check attached  
hereto, authorization to  
charge the extension fee,  
or any other fee required  
in connection with this  
Paper, to Account No. 06-1378.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ATTENTION: Mr. Shanoski**  
**Office of Petitions**

S I R :

During a telephone discussion on May 20, 2003 between  
Mr. Shanoski of the Office of Petitions and the undersigned,  
Mr. Shanoski said that the undersigned was not an attorney of  
record in this application.

Transmitted herewith is a copy of the POST-FILED DECLARATION  
AND POWER OF ATTORNEY, filed on January 12, 2000, (copy of  
postcard receipt is attached) showing that the undersigned is an  
attorney of record.

The undersigned requests that Mr. Shanoski call the undersigned at 212-319-4900 to discuss this application.

Respectfully submitted,



RICHARD S. BARTH  
REG. NO. 28,180

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FRISHAUF, HOLTZ, GOODMAN & CHICK, P.C.  
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RSB/ddf

- Encs.: (1) copy of POST-FILED PCT DECLARATION  
AND POWER OF ATTORNEY filed on  
January 12, 2000
- (2) Postcard receipt therefor with PTO  
date stamp thereon

**APPLICATION FOR UNITED STATES LETTERS PATENT**  
**POST-FILED PCT Declaration and Power of Attorney (35 U.S.C. 371(c)(4))**  
**PCT Application - United States Designated Office**

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GROUP 1

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:  
**DEVICE FOR DETERMINING FLUCTUATIONS IN END EXPIRATORY GASES, METHOD FOR DETERMINING FLUCTUATIONS IN RESPIRATORY METABOLISM AND THE USE OF SAID DEVICE**  
described and claimed in serial number 09/403,940 deposited October 29, 1999, which is the national phase application of international application number PCT/DE98/01172, filed April 28, 1998.

I have reviewed and understand the contents of said specification, including claims.  
I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §1.56.

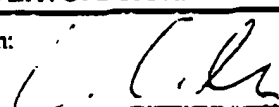
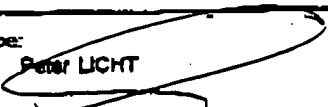
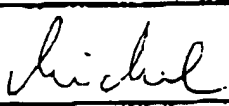
I claim priority benefits under 35 USC §119 of: (i) any foreign application(s) for patent or inventor's certificate listed below; or (ii) any United States provisional application(s) listed below; and have also identified below any foreign application(s) for patent or inventor's certificate, or PCT international application having a filing date before that of the application(s) on which priority is claimed.

COUNTRY	APPLICATION NUMBER	DATE (day, month, year)	PRIORITY CLAIMED
Germany	297 07 771.6	29, April, 1997	yes <input checked="" type="checkbox"/> no <input type="checkbox"/>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I appoint the following attorneys to prosecute this application and to transact all business in the U.S. Patent & Trademark Office connected therewith: Leonard Holtz, Reg. No. 22,974; Herbert Goodman, Reg. No. 17,081; Thomas Langer, Reg. No. 27,264; Marshall J. Chick, Reg. No. 26,853; Richard S. Barth, Reg. No. 28,180; Douglas Holtz, Reg. No. 33,902; and Robert P. Michal, Reg. No. 35,614.

CORRESPONDENCE AND CALLS TO: FRISHAUF, HOLTZ, GOODMAN, LANGER & CHICK, P.C.  
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New York, New York 10017-2023 Fax.: (212) 319-5101

INVENTOR: SIGNATURE	DATE	RESIDENCE AND POST OFFICE ADDRESS
Sign: 	Date: 25/11/1999	Residence: (City & Country) Herzogenaurach, Germany
Type: Ludwig WILDT	Citizen of: Germany Herzogenaurach	Post Office Address: Haundorfer Str. 2b D-91074 Herzogenaurach GERMANY
Sign: 	Date: 25/11/1999	Residence: (City & Country) Bubenreuth, Germany
Type: Peter LICHT	Citizen of: Germany Bubenreuth	Post Office Address: Domplatzstr. 25 2. D-91088 Bubenreuth GERMANY
Sign: 	Date: 20-12-99	Residence: (City & Country) Oberursel, Germany
Type: Matthias MICHEL	Citizen of: Germany Oberursel	Post Office Address: K.-H.-Flach-Str. 32 D-61440 Oberursel GERMANY

RECEIPT ACKNOWLEDGED;

990667/RSB - Ludwig WILDT et al.  
SN 09/403,940

TRANSMITTAL LETTER, Executed Post-filed PCT  
DECLARATION AND POWER OF ATTORNEY; Originally  
executed STATEMENT CLAIMING SMALL ENTITY (a copy of  
which was mailed on December 27, 1999);  
CHECK FOR \$65 (Small Entity Fee for post-filing  
Decl.), Ck. #77704

FCM/CERT. OF MAILING: JANUARY 10, 2000

RSB/ddf

418 Rec'd PCT/PTO 12 JAN 2000